



PATENT

Docket No. 2710-4007US1

#4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s) or Patentee(s) : Michael B. Chancellor, et al. Group Art Unit: TBD  
Serial No. or Patent No. : 09/302,896 Examiner: TBD  
Filed or Issued : April 30, 1999  
For : MUSCLE-DERIVED CELL MEDIATED GENE DELIVERY FOR TREATING  
MUSCLE-AND BONE-RELATED INJURY OR DYSFUNCTION

STATEMENT (DECLARATION) CLAIMING SMALL ENTITY  
STATUS (37 CFR § 1.9 (f) and § 1.27 (d)) - NONPROFIT ORGANIZATION

I hereby state that I am an official empowered to act on behalf of the nonprofit organization identified below:

NAME OF ORGANIZATION UNIVERSITY OF PITTSBURGH

ADDRESS OF ORGANIZATION , 200 Gardner Steel Conference Center, Pittsburgh, Pennsylvania 15260, U.S.A

TYPE OF ORGANIZATION

- ☒ University or other institution of higher education  
☐ Tax exempt under Internal Revenue Service Code (26 USC 501(a) and 501(c) (3))  
☐ Nonprofit scientific or educational under statute of state of The United States of America

(Name of state \_\_\_\_\_)

(Citation of statute \_\_\_\_\_)

- ☐ Would qualify as tax exempt under Internal Revenue Service code (26 USC §§  
501(a) and 501(c)(3)) if located in the United States of America  
☐ Would qualify as nonprofit scientific or educational under statute of state of The United States of  
America if located in the United States of America

(Name of state \_\_\_\_\_)

(Citation of statute \_\_\_\_\_)

I hereby state that the nonprofit organization identified above qualifies as a nonprofit organization as defined in 37 CFR § 1.9(e) for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code with regard to the invention entitled MUSCLE-DERIVED CELL MEDIATED GENE DELIVERY FOR TREATING MUSCLE-AND BONE-RELATED INJURY OR DYSFUNCTION by inventor(s) Michael B. Chancellor and Johnny Huard

described in

- ☐ the specification filed herewith

☒ application Serial No. 09/302,896, filed April 30, 1999

☐ Patent No. \_\_\_\_\_, issued \_\_\_\_\_

I hereby state that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above-identified invention.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR § 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR § 1.9(d) or a nonprofit organization under 37 CFR § 1.9(e).

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☒ Nonprofit Organization

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate.  
(37 CFR § 1.28(b))

NAME OF PERSON SIGNING Jerome Cochran

TITLE IN ORGANIZATION Executive Vice Chancellor

ADDRESS OF PERSON SIGNING 1 200 Gardner Steel Conference Center, Pittsburgh, Pennsylvania 15260, U.S.A.

SIGNATURE \_\_\_\_\_

FORM: NONPROFIT

Rev. 7/14/98

DATE 5-27-99

NOTE: Separate statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR § 1.27)

FORM: NON-PROF.ORG

Rev. 10/04/94

<u>Country/PCT</u>	<u>Application Number</u>	<u>Date of filing (day, month, yr)</u>	<u>Date of Issue (day, month, yr)</u>	<u>Priority Claimed</u>
				<input type="checkbox"/> YES <input type="checkbox"/> NO
				<input type="checkbox"/> YES <input type="checkbox"/> NO
				<input type="checkbox"/> YES <input type="checkbox"/> NO

☒ I hereby claim the benefit under 35 U.S.C. § 119(e) of any U.S. provisional application(s) listed below.

<u>Provisional Application No.</u>	<u>Date of Filing (day, month, yr)</u>
60/083,917	01 - May - 1998

**ADDITIONAL STATEMENTS FOR DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART  
OR PCT INTERNATIONAL APPLICATION(S) (DESIGNATING THE U.S.)**

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or under § 365(c) of any PCT international application(s) designating the U.S. listed below.

<u>US/PCT Application Serial No.</u>	<u>Filing Date</u>	<u>Status (patented, pending, abandoned)/ U.S. application no. assigned (For PCT)</u>

☐ In this continuation-in-part application, insofar as the subject matter of any of the claims of this application is not disclosed in the above listed prior United States or PCT international application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or Imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint the following attorneys and/or agents with full power of substitution and revocation, to prosecute this application, to receive the patent, and to transact all business in the Patent and Trademark Office connected therewith: John A. Diaz (Reg. No. 19,550), John C. Vassil (Reg. No. 19,098), Alfred P. Ewert (Reg. No. 19,887), David H. Pfeffer (Reg. No. 19,825), Harry C. Marcus (Reg. No. 22,390), Robert E. Paulson (Reg. No. 21,046), Stephen R. Smith (Reg. No. 22,615), Kurt E. Richter (Reg. No. 24,052), J. Robert Dailey (Reg. No. 27,434), Eugene Moroz (Reg. No. 25,237), John F. Sweeney (Reg. No. 27,471), Arnold I. Rady (Reg. No. 26,601), Christopher A.



COMBINED DECLARATION AND POWER OF ATTORNEY FOR  
ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL  
DIVISIONAL, CONTINUATION OR CONTINUATION-IN-PART APPLICATION

As a below name inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Muscle-Derived Cell Mediated Gene Delivery for Treating Muscle- and Bone-Related Injury or Dysfunction  
the specification of which

- a. ☐ is attached hereto
- b. ☒ was filed on April 30, 1999 as U.S. Application Serial No. 09/302,896 and was amended on \_\_\_\_\_ (if applicable).

PCT FILED APPLICATION ENTERING NATIONAL STAGE

- c. ☐ was described and claimed in International Application No. \_\_\_\_\_ filed on \_\_\_\_\_ and as amended on \_\_\_\_\_ (if any).

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby specify the following as the correspondence address to which all communications about this application are to be directed:

SEND CORRESPONDENCE TO: MORGAN & FINNEGAN, L.L.P  
345 Park Avenue  
New York, N.Y. 10154

DIRECT TELEPHONE CALLS TO: Leslie A. Serunian  
(212) 758-4800


☐ I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) or under § 365(b) of any foreign application(s) for patent or inventor's certificate or under § 365(a) of any PCT international application(s) designating at least one country other than the U.S. listed below and also have identified below such foreign application(s) for patent or inventor's certificate or such PCT international application(s) filed by me on the same subject matter having a filing date within twelve (12) months before that of the application on which priority is claimed:

☒ The attached 35 U.S.C. § 119 claim for priority for the application(s) listed below forms a part of this declaration.

Hughes (Reg. No. 26,914), William S. Feiler (Reg. No. 26,728), Joseph A. Calvaruso (Reg. No. 28,287), James W. Gould (Reg. No. 28,859), Richard C. Komson (Reg. No. 27,913), Israel Blum (Reg. No. 26,710), Bartholomew Verdirame (Reg. No. 28,483), Maria C.H. Lin (Reg. No. 29,323), Joseph A. DeGirolamo (Reg. No. 28,595), Michael P. Dougherty (Reg. No. 32,730), Seth J. Atlas (Reg. No. 32,454), Andrew M. Riddles (Reg. No. 31,657), Bruce D. DeRenzi (Reg. No. 33,676), Michael M. Murray (Reg. No. 32,537), Mark J. Abate (Reg. No. 32,527), Alfred L. Haffner, Jr. (Reg. No. 18,919), Harold Haidt (Reg. No. 17,509), John T. Gallagher (Reg. No. 35,516), Steven F. Meyer (Reg. No. 35,613) and Kenneth H. Sonnenfeld (Reg. No. 33,285) of Morgan & Finnegan, L.L.P. whose address is: 345 Park Avenue, New York, New York, 10154; and Edward A. Pennington (Reg. No. 32,588), Michael S. Marcus (Reg. No. 31,727) and John E. Hoel (Reg. No. 26,279) of Morgan & Finnegan, L.L.P., whose address is 1775 Eye Street, Suite 400, Washington, D.C. 20006.

[ ] I hereby authorize the U.S. attorneys and/or agents named hereinabove to accept and follow instructions from \_\_\_\_\_ as to any action to be taken in the U.S. Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and/or agents and me. In the event of a change in the person(s) from whom instructions may be taken I will so notify the U.S. attorneys and/or agents hereinabove.

Full name of sole or first inventor Michael B. CHANCELLOR

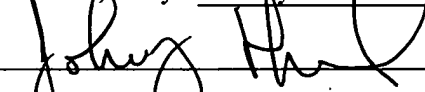
Inventor's signature\*  6/1/99  
date

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Citizenship U.S.A.

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Full name of second joint inventor, if any Johnny HUARD

Inventor's signature\*  6/8/99  
date

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Citizenship Canada

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[ ] ATTACHED IS/ARE ADDED PAGE(S) TO COMBINED DECLARATION AND POWER OF ATTORNEY FORM FOR SIGNATURE BY THIRD AND SUBSEQUENT INVENTORS

\* Before signing this declaration, each person signing must:

1. Review the declaration and verify the correctness of all information therein; and
2. Review the specification and the claims, including any amendments made to the claims.

After the declaration is signed, the specification and claims are not to be altered.